

**IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MISSOURI,
SOUTHERN DIVISION**

In re:)
)
417 RENTALS, LLC,)
)
Debtor.) Case No. 17-60935

**MOTION OF FIRST NATIONAL BANK FOR RELIEF FROM AUTOMATIC
STAY AS TO REAL PROPERTY LOCATED IN GREENE AND CHRISTIAN
COUNTY, MISSOURI, OR ALTERNATIVELY, FOR ADEQUATE PROTECTION**

COMES NOW Movant, First National Bank, by and through its undersigned counsel, and for its Motion for Relief from Stay, or Alternatively, for Adequate Protection, states to the Court as follows:

1. On August 25, 2017, Debtor filed a voluntary Chapter 11 bankruptcy Petition and is now operating its business as a debtor-in-possession.
2. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 1334 and 157.
3. Movant brings this action under 11 U.S.C. §362 and Rule 4001 of the Bankruptcy Rules.¹
4. Venue is proper under 28 U.S.C. §§ 1408 and 1409.
5. This is a core proceeding pursuant to 28 U.S.C. §157(b).
6. Upon information and belief, Christopher Gatley (“Gatley”) is the sole member of the Debtor.
7. Gatley, as borrower, is indebted to First National Bank under nine (9) separate loans, and specifically, as follows:

¹ All rights under 11 U.S.C. §362(e) are reserved.

a. A Promissory Note dated September 16, 2005 in the original principal amount of \$251,239.50 ("Loan 4401"), payment of which is secured by a Deed of Trust dated September 16, 2005 granted by Gatley covering ALL OF LOTS ONE (1) THROUGH AND INCLUDING TWENTY (20), WISE HILL, A SUBDIVISION IN CHRISTIAN COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF. Copies of said Promissory Note and Deed of Trust are attached hereto as **Exhibits "A" and "B"** respectively, and incorporated by reference herein. As of August 25, 2017, after all applicable credits, Loan 4401 had an outstanding balance of \$146,823.55, consisting of \$145,218.49 in principal, \$251.61 in interest and \$1,353.45 in late charges.

b. A Promissory Note dated November 4, 2005 in the original principal amount of \$28,000.00 ("Loan 4403"), payment of which is secured by a Deed of Trust dated November 4, 2005 covering ALL OF LOT THREE HUNDRED THIRTY-THREE (333), HOMELAND ADDITION, AN ADDITION TO THE CITY OF SPRINGFIELD, GREENE COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF, and commonly known as 1913 N. Colgate, Springfield, Missouri. True and accurate copies of said Promissory Note and Deed of Trust are attached hereto as **Exhibits "C" and "D"** respectively, and incorporated by reference herein. As of August 25, 2017, Loan 4403 had an outstanding balance of \$16,822.57, consisting of \$16,731.71 in principal, \$65.86 in interest, and \$25.00 in late charges.

c. A Promissory Note dated November 4, 2005 in the original principal amount of \$36,400.00 ("Loan 4405"), payment of which is secured by a Deed of Trust dated November 4, 2005 granted by Gatley covering ALL OF THE WEST ONE-HALF

(W1/2) OF LOT TWENTY (20), BLOCK SEVEN (7), HIGHLAND GARDENS SUBDIVISION, SPRINGFIELD, GREENE COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF, and commonly known as 2959 W. Madison Street, Springfield, Missouri. True and accurate copies of said Promissory Note and Deed of Trust are attached hereto as **Exhibits “E” and “F”** respectively, and incorporated by reference herein. As of August 25, 2017, Loan 4405 had an outstanding balance of \$21,798.24, consisting of \$21,687.85 in principal, \$85.39 in interest and \$25.00 in late charges.

d. A Promissory Note dated November 4, 2005 in the original principal amount of \$37,600.00 (“Loan 4406”), payment of which is secured by a Deed of Trust dated November 4, 2005 granted by Gatley covering ALL OF THE WEST 45 FEET OF THE EAST 90 FEET OF LOTS TWENTY-EIGHT (28), TWENTY-NINE (29) AND THIRTY (30), BLOCK TWO (2), FAIRMONT ADDITION, IN THE CITY OF SPRINGFIELD, GREENE COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF, and commonly known as 2026 W. Division Street, Springfield, Missouri. True and accurate copies of said Promissory Note and Deed of Trust are attached hereto as **Exhibits “G” and “H”** respectively, and incorporated by reference herein. As of August 25, 2017, Loan 4406 had an outstanding balance of \$22,423.94, consisting of \$22,311.08 in principal, \$87.86 in interest and \$25.00 in late charges.

e. A Promissory Note dated November 4, 2005 in the original principal amount of \$46,400.00 (“Loan 4407”), payment of which is secured by a Deed of Trust granted by Gatley covering ALL OF LOT TWENTY-FOUR (24), BLOCK SIX (6),

WEST HIGHLANDS, A SUBDIVISION IN THE CITY OF SPRINGFIELD, GREENE COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF and commonly known as 3317 W. Grand, Springfield, Missouri. True and accurate copies of said Promissory Note and Deed of Trust are attached hereto as **Exhibits “I” and “J”** respectively, and incorporated by reference herein. As of August 25, 2017, Loan 4407 had an outstanding balance of \$27,665.92, consisting of \$27,532.49 in principal, \$108.43 in interest and \$25.00 in late charges.

f. A Promissory Note dated November 4, 2005 in the original principal amount of \$46,400.00 (“Loan 4408”), payment of which is secured by a Deed of Trust dated November 4, 2005 granted by Gatley covering ALL OF LOT THIRTY-THREE (33), E.H. BRITAIN’S ADDITION TO REPUBLIC, GREENE COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF AND SUBJECT TO THAT PART TAKEN OR USED FOR ROADS, and commonly known as 216 W. Hwy 174, Republic, Missouri. True and accurate copies of said Promissory Note and Deed of Trust are attached hereto as **Exhibits “K” and “L”** respectively, and incorporated by reference herein. As of August 25, 2017, Loan 4408 had an outstanding balance of \$28,020.13, consisting of \$27,885.31 in principal, \$109.82 in interest and \$25.00 in late charges.

g. A Promissory Note dated November 4, 2005 in the original principal amount of \$35,200.00 (“Loan 4409”), payment of which is secured by a Deed of Trust dated November 4, 2005 granted by Gatley covering ALL OF LOT FOUR (4), BLOCK FOUR (4), CROWN HEIGHTS, AN ADDITION TO GREENE COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF and commonly known as 2514 W. Monroe Street, Springfield, Missouri. True and accurate copies of said Promissory

Note and Deed of Trust are attached hereto as **Exhibits “M”** and **“N”** respectively, and incorporated by reference herein. As of August 25, 2017, Loan 4409 had an outstanding balance of \$21,324.43, consisting of \$21,215.91 in principal, \$83.52 in interest and \$25.00 in late charges.

h. A Promissory Note dated November 4, 2005 in the original principal amount of \$27,600.00 (“Loan 4410”), payment of which is secured by a Deed of Trust dated November 4, 2005 granted by Gatley covering ALL OF LOT FORTY-TWO (42), HIGH LINE ADDITION, SPRINGFIELD, GREENE COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF and commonly known as 2063 N. Roosevelt Avenue, Springfield, Missouri. True and accurate copies of said Promissory Note and Deed of Trust are attached hereto as **Exhibits “O”** and **“P”** respectively, and incorporated by reference herein. As of August 25, 2017, Loan 4410 had an outstanding balance of \$16,341.71, consisting of \$16,252.74 in principal, \$63.97 in interest and \$25.00 in late charges.

i. A Promissory Note dated November 4, 2005 in the original principal amount of \$32,000.00 (“Loan 4411”), payment of which is secured by a Deed of Trust dated November 4, 2005 granted by Gatley covering ALL OF LOT SEVENTY-FOUR (74) IN THE SHERWOOD SUBDIVISION, SPRINGFIELD, GREENE COUNTY, MISSOURI ACCORDING TO THE RECORDED PLAT THEREOF and commonly known as 3010 W. Washita Street, Springfield, Missouri. True and accurate copies of said Promissory Note and Deed of Trust are attached hereto as **Exhibits “Q”** and **“R”** respectively, and incorporated by reference herein. As of August 25, 2017, Loan 4411

had an outstanding balance of \$19,654.30, consisting of \$19,552.30 in principal, \$77.00 in interest and \$25.00 in late charges.

Each of the loans referenced above may be collectively referred to herein as the “Loans” and each Deed of Trust referenced above may be referred to herein collectively as the “Deeds of Trust”.

8. As of August 25, 2017, all of the Loans were in default.


9. Upon information and belief, and at one or more times which are unknown to First National Bank, Gatley transferred some or all of the real property described within the Deeds of Trust to the Debtor. Upon information and belief, Gatley received no legal consideration from the Debtor in exchange for such transfers, and same were made by Gatley subject to the Deeds of Trust, none of which have been released by First National Bank.

10. Cause exists under 11 U.S.C. § 362(d)(1) for terminating or modifying the automatic stay to allow First National Bank to enforce its rights under applicable non-bankruptcy law, including proceeding forward with a foreclosure of the real property. Upon information and belief, there little to no equity in the real properties. Further, all, or a substantial portion of, the properties encumbered by the Deeds of Trust are occupied by tenants and said properties continue to depreciate to the detriment and irreparable harm of First National Bank. Additionally, any rents being collected from the real properties are not being turned over to First National Bank. Accordingly, First National Bank’s interests in the real properties are not adequately protected.

WHEREFORE, First National Bank prays for an Order lifting the automatic stay of 11 U.S.C. §362 allowing it to foreclose upon the real property which is encumbered by the Deeds of Trust securing its debt as described herein, or in the alternative, for an Order requiring the Debtor

to pay First National Bank adequate protection. Additionally, First National Bank prays for waiving of the requirements of Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure, and for such other and further Orders and relief as the Court deems just in the premises.

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CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of September, 2017, I electronically filed the foregoing with the Clerk of Court using the Court's electronic filing system which will send notification of such filing to the following:

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